

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

DR. DAISY M. LACOUR

PLAINTIFF

VS.

CIVIL ACTION NO. 5:08-cv-315(DCB)(JMR)

CLAIBORNE COUNTY SCHOOL
DISTRICT BOARD; and
DR. ANNIE KILCREASE

DEFENDANTS

ORDER

This cause is before the Court sua sponte to address docket entries of December 16, 2008, including the plaintiff's motion for entry of default (**docket entry 8**) and motion for default judgment (**docket entry 10**). Having carefully considered the motions, and being fully advised in the premises, the Court finds as follows:

On November 24, 2008, the plaintiff filed her complaint against Claiborne County School District Board and Annie Kilcrease. The Proof of Service, filed November 25, 2008, reflects that process was served on November 24, 2008. The defendants filed their Answer to the Complaint on December 15, 2008. On December 16, 2008, the plaintiff filed her motions for entry of default and for default judgment. Inasmuch as a timely answer had been filed by the defendants, the plaintiff was not entitled to an entry of default nor to a default judgment. See Fed.R.Civ.P. 55. The Court therefore finds that the entry of default and "default judgment" inadvertently entered by the clerk shall be vacated, and the plaintiff's motions denied. Accordingly,

IT IS HEREBY ORDERED that the plaintiff's motion for entry of default (**docket entry 8**) and motion for default judgment (**docket entry 10**) are DENIED;

FURTHER ORDERED that the Clerk's Entry of Default (**docket entry 9**) and Default Judgment (**docket entry 12**) are VACATED.

SO ORDERED, this the 17th day of December, 2008.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE